

**Decision PROPOSED DECISION OF ALJ O'DONNELL  
(Mailed 4/16/2002)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of California Water Service Company (U 60 W), a Corporation, for an Order Authorizing it to Increase Rates Charged for Water Service at Each of its Operating Districts to Recover Increased Operating Expenditures at its General Office.

Application 01-05-002  
(Filed May 1, 2001;  
amended August 15, 2001)

Gregory Bowling, Attorney at Law,  
and Francis S. Ferraro, for California  
Water Service Company, Applicant.  
Laura Tudesco, Attorney at Law,  
for the Office of Ratepayer Advocates,  
and James Weil, for Aglet Consumer  
Alliance, interested parties.

**O P I N I O N****I. Summary**

California Water Service Company (CWS) requests authority to increase rates in each of its operating districts to recover increases in its General Office (GO) revenue requirement. By this decision, we deny the application because CWS has not demonstrated that the GO revenue requirement should be treated separately from general rate case (GRC) proceedings.

**II. Background**

On May 1, 2001, CWS filed this application to increase rates in each of its operating districts to recover a projected increase in its GO revenue requirement. At the July 10, 2001 prehearing conference, the assigned administrative law judge (ALJ) ordered CWS to amend its application to fully satisfy the Commission's requirements for such a filing. The amendment was filed on August 15, 2001. Hearings were held on January 17 and 18, 2002. The proceeding was submitted upon receipt of briefs.

**III. The Application**

In its application, CWS requested approval of rate increases for its operating districts to recover its estimated GO revenue requirement increases for 2001 and 2002. CWS proposed that the increases be implemented through advice letter filings. The requested revenue requirement increases for each of its operating districts are as follows:

<u>District</u>	<u>2001 (\$)</u>	<u>2001 (%)</u>	<u>2002 (\$)</u>	<u>2002 (%)</u>
Bakersfield	673,300	2.8	204,200	0.8
Bear Gulch	330,800	2.7	87,400	0.7
Chico	427,200	5.7	85,500	1.1
Dixon	31,000	3.2	10,000	1.0
East Los Angeles	404,000	2.6	114,100	0.7
Hermosa-Redondo	498,000	3.4	104,100	0.7
Livermore	330,400	4.1	63,800	0.8
Los Angeles	501,000	4.8	73,400	0.7
Marysville	54,300	4.3	13,500	1.0

Palos Verdes	307,400	1.5	128,000	0.6
Salinas	724,600	9.3	89,600	1.1
Mid Peninsula	517,500	3.3	118,600	0.7
South San Francisco	197,600	2.5	59,800	0.8
Stockton	542,000	3.6	139,100	0.9
Visalia	309,800	3.6	90,800	1.0
West Lake	103,600	1.5	46,800	0.7
Willows	24,700	3.0	9,200	1.1

#### **IV. Proposed Settlement**

On December 14, 2001, CWS and Aglet Consumer Alliance filed a motion to adopt a proposed settlement. Under the settlement, CWS would be allowed a \$3,000,000 annual rate increase for 12 months from the date of the increase, or until the effective date of a decision in Application (A.) 01-09-062, et al.<sup>1</sup> No increases would be allowed for the Bakersfield, and South San Francisco Districts. However, CWS would be allowed to request rate increases for those districts effective January 1, 2003, up to a specified maximum, by advice letter. The Office of Ratepayer Advocates (ORA) opposed the motion.

#### **V. Positions of ORA and CWS Regarding Treatment of GO Revenue Requirement Outside of GRCs**

ORA argues that the application should be denied because it does not meet the requirements for consideration of a category of expense outside the context of a GRC. In particular, ORA says that the Commission's established practice is to

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<sup>1</sup> A.01-09-062, et al., are general rate increase applications which include the CWS districts involved in this application with the exception of the Bakersfield, Palos Verdes, and South San Francisco Districts.

consider GO expenditures in general rate proceedings. In addition, ORA says that CWS has been over-earning for the last five years, and that for the 12 months ending September 30, 2000, CWS was earning a return of 10.21% on a company-wide basis as opposed to an authorized return of 8.79%.

CWS argues that the Commission's water Rate Case Plan (RCP) allows for the filing of rate applications outside of the RCP. As to earnings, CWS says that earnings for 1997-2001,<sup>2</sup> unadjusted for weather or other ratemaking items, exceeded authorized earnings by only \$4.9 million. CWS also states that the proposed increases in its application and the settlement were subjected to a pro forma earnings test to insure that the increases for each district would not result in earnings above the authorized rate of return.

## **VI. Discussion**

The Commission sometimes allows water utilities to recover recorded costs for purchased power, purchased water, and pump taxes through "offset" proceedings, filed by advice letter, to the extent that these are unforeseen expenses that are beyond the control of the utility, and are recorded in Commission-authorized balancing accounts. Here, the requested increase has not been approved for recovery through offset proceedings, and was not filed by advice letter. The expenditures are projected rather than recorded, they are within the control of the utility, and they are not recorded in balancing accounts. Therefore, this is not an offset proceeding.

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<sup>2</sup> 2001 is an estimate based on nine months of data.

Traditionally, the GO revenue requirement is addressed in GRC proceedings for the operating districts.<sup>3</sup> The GO revenue requirement is estimated for the total company, and allocated to the operating districts. In this way, all elements of each district's revenue requirement, except those subject to offset proceedings, are examined, and rates are set accordingly.

In this proceeding, CWS asks us to increase rates to recover its estimated GO revenue requirement outside of the operating district GRCs. CWS says that its request is consistent with the RCP that provides that "Class A water utilities may file general rate case applications at times other than those provided in the filing schedule..." Decision (D.) 90-08-045: 37 CPUC 2d 175,188 (1990). It also says that there is no Commission decision that says the GO revenue requirement can only be reviewed in GRC applications for operating districts. These assertions miss the point. Specifically, they support increasing the GO revenue requirement in a separate proceeding, apart from a GRC. As explained below, the GRC is the proper forum for setting the utility's revenue requirements.

In GRCs, each district's revenue requirement is reviewed in its entirety, and the resulting rates are set to allow the utility an opportunity to earn a reasonable rate of return. Over time some expenditures that make up the revenue requirement may increase while others may decrease. The Commission considers the resulting risk to the utility's earnings in setting the authorized return on equity. Since the utility is at liberty to manage its operations, it can increase its earnings by controlling costs. In this proceeding, CWS asks that we

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<sup>3</sup> CWS files GRCs for some of its districts every year. In recent years, CWS and ORA have informally agreed to examine the GO revenue requirement every third year. In GRCs filed for the intervening years, the previously adopted GO revenue requirement, adjusted for inflation, has been used.

adjust rates for the operating districts, by looking only at the GO revenue requirement allocations, without looking at other costs that may also have increased or decreased. Were we to do so, in the absence of a review of the company over all operative costs, we would be reducing the risk to the utility's earnings, and the resulting incentive for the utility to be efficient. Stated differently, were we to allow the utility to adjust its revenue requirements on a piecemeal basis, it would seek rate increases whenever its costs were going up, while ignoring expense categories where costs were unchanged or decreasing. Over time, such a practice would result in unnecessarily high rates.

In its recent GRC applications for its operating districts, CWS has been authorized rate increases for two test years and two attrition years<sup>4</sup>. These increases are intended to compensate CWS for net increases in its revenue requirements over the covered years, including the GO. Therefore, the fact that CWS estimates that its GO revenue requirement will increase does not justify adjusting rates outside of district GRCs.

While CWS and ORA disagree on the CWS' earnings, neither party alleges that CWS is experiencing a financial emergency. Therefore, there is no financial emergency to justify the proposed rate increases.

CWS has pending GRC applications for most of its operating districts. The GO revenue requirement will be more fully examined in those proceedings. In addition, in D.01-08-039 and D.01-09-003, the Commission approved a settlement that adopted GRC rate increases for the Bakersfield and South San Francisco districts. Therefore, we find that CWS has ample opportunity to seek recovery of

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<sup>4</sup> For test years, rates are set based on individually estimated expenditures. For attrition years, rates are adjusted by an overall escalation factor.

GO revenue requirement increases through GRC proceedings for its operating districts.

CWS has not justified its proposal to increase rates in its operating districts to recover its estimated GO revenue requirement increases outside of operating district GRCs. There is no precedent suggesting that we should approve CWS' request.<sup>5</sup> Since, as CWS pointed out, D.90-08-045 does not preclude it from filing operating district GRCs outside of the RCP, it could have filed its GRCs earlier. Therefore, we see no reason to allow consideration of the GO revenue requirement outside of the operating districts' GRCs. Since the settlement would grant rate increases for estimated GO revenue requirement increases outside of GRCs, the settlement is not in the public interest. As a result, we will deny the motion for approval of the proposed settlement, and dismiss the application.

## **VII. Categorization and Need for Hearings**

In Resolution ALJ 176-3063 dated May 14, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. Since hearings were held, there is no reason to disturb this preliminary determination.

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<sup>5</sup> In D.98-12-070, the Commission approved a settlement that allowed Southern California Water Company to recover agreed-upon GO revenue requirement increases through advice letter filings for districts that were not part of the GRC applications. In D.99-05-018, the Commission approved a settlement that granted a similar request by CWS. Pursuant to Rule 51.8 of the Commission's Rules of Practice and Procedure, however, such settlements are not precedential.

**VIII. Comments on the Proposed Decision**

On \_\_\_\_\_, 2002, the principal hearing officer's proposed decision in this proceeding was filed with the Commission and served on the parties in accordance with § 311(d) of the Pub. Util. Code and Rule 77.1 of the Commission's Rules of Practice and Procedure.

**Findings of Fact**

1. The Commission has not previously authorized recovery of the GO revenue requirement through offset proceedings.
2. The GO revenue requirement is projected rather than recorded, within the control of the utility, and not recorded in a balancing account.
3. Traditionally, the GO revenue requirement has been addressed in GRC proceedings for operating districts where it is estimated for the total company, and allocated to the operating districts.
4. In GRC proceedings, all elements of each district's revenue requirement, except those subject to offset proceedings, are examined, and rates set accordingly.
5. CWS files GRCs for some of its districts every year.
6. In recent years, CWS and ORA have informally agreed to examine the GO revenue requirement every third year.
7. In the intervening years, the previously adopted GO revenue requirement, adjusted for inflation, has been used.
8. In GRCs the Commission considers the risk to the utility's earnings in setting the authorized return on equity.
9. Since the utility is at liberty to manage its operations, it can increase its earnings by controlling costs.



10. If the Commission were to adjust rates for the operating districts, by looking only at the GO, the incentive for the utility to be efficient would be reduced.

11. CWS is not experiencing a financial emergency.

12. CWS has pending GRC applications for most of its operating districts.

13. In D.01-08-039 and D.01-09-003, the Commission approved a settlement that adopted GRC rate increases for CWS' Bakersfield and South San Francisco districts.

14. There is no precedent suggesting that the Commission should approve CWS' request.

15. D.90-08-045 does not preclude CWS from filing operating district GRCs outside of the RCP.

16. The settlement would grant rate increases for estimated GO revenue requirement increases outside of GRCs.

### **Conclusions of Law**

1. This application is not an offset proceeding.

2. CWS has ample opportunity to seek recovery of GO revenue requirement increases through GRC proceedings for its operating districts.

3. The GO revenue requirement should not be addressed outside of the operating districts' GRCs.

4. The settlement is not in the public interest.

5. The motion of CWS and Aglet for approval of a proposed settlement should be denied.

6. The application should be dismissed.

7. In order to remove this matter from the Commission's calendar, this order should be effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. The motion of California Water Service Company and Aglet Consumer Alliance for approval of a proposed settlement is denied.
2. Application 01-05-002 is dismissed.
3. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.